



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

WILLIE FRAZIER,
a/k/a Willie Bernard Frazier,
Plaintiff,

vs.

SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS, OFFICER KIMBRELL, and
LUETINANT BOREM,
Defendants.

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CIVIL ACTION 4:19-2384-MGL-TER

**ORDER ADOPTING THE REPORT AND RECOMMENDATION AND
DISMISSING DEFENDANT SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
WITH PREJUDICE AND WITHOUT ISSUANCE AND SERVICE OF PROCESS**

Plaintiff Willie Frazier (Frazier) filed this lawsuit under 42 U.S.C. § 1983. He is proceeding pro se.

The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Defendant South Carolina Department of Corrections (SCDC) be dismissed with prejudice and without issuance and service of process. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo

determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on October 25, 2019, but Frazier failed to file any objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court Defendant SCDC is **DISMISSED WITH PREJUDICE** and without issuance and service of process.

IT IS SO ORDERED.

Signed this 18th day of November, 2019, in Columbia, South Carolina.

s/ Mary Geiger Lewis

MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Frazier is hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.